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| APPLICATION NO.                      | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.     | CONFIRMATION NO. |
|--------------------------------------|-------------|----------------------|-------------------------|------------------|
| 10/785,590                           | 02/23/2004  | Douglas M. Baney     | 10030172-1              | 3186             |
| 7590                                 | 03/01/2006  |                      | EXAMINER                |                  |
| AGILENT TECHNOLOGIES, INC.           |             |                      | TO, TUAN C              |                  |
| Legal Department, DL429              |             |                      | ART UNIT                | PAPER NUMBER     |
| Intellectual Property Administration |             |                      |                         |                  |
| P.O. Box 7599                        |             |                      | 3663                    |                  |
| Loveland, CO 80537-0599              |             |                      | DATE MAILED: 03/01/2006 |                  |

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                        |                     |
|------------------------------|------------------------|---------------------|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |
|                              | 10/785,590             | BANEY, DOUGLAS M.   |
|                              | <b>Examiner</b>        | <b>Art Unit</b>     |
|                              | Tuan C. To             | 3663                |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 23 February 2004.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 1-20 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) \_\_\_\_\_ is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) 1-20 are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on 23 February 2004 is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_ .

5)  Notice of Informal Patent Application (PTO-152)

6)  Other: \_\_\_\_ .

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-14, drawn to an apparatus, classified in class 701, subclass 117.
  - II. Claims 15-20, drawn to a process, classified in class 701, subclass 210.
2. The inventions I and II are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case, the process as claimed can be practiced by a navigation apparatus that recalculates a route based on updated traffic information.
3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.
4. Upon election of invention I only, the applicant is further required to elect a single species of the following under 35 U.S.C 121 for the purpose to examination. This additional requirement is to facilitate examining due to the broad range of first system variable available in applicant's traffic communication system:
  - A. Elect one of the disclosed species of system variable from among the Markush group of species. For example, signal setting only, or signal direction only, etc.

Note: In regard to single species election of species A, the election should not be open-ended (i.e., comprising). An open-ended election will be considered non-responsive.

5. Upon election of invention I only, the applicant is further required to elect a single species of the following under 35 U.S.C 121 for the purpose to examination. This additional requirement is to facilitate examining due to the broad range of signal available in applicant's traffic communication system:

B. Elect one of the disclosed species of signal from among the Markush group of species. For example, acoustic signal only, or radio frequency signal only, or acoustic plus radio only.

Note: In regard to single species election of species B, the election should not be open-ended (i.e., comprising). An open-ended election will be considered non-responsive.

6. Upon election of invention I only, the applicant is further required to elect a single species of the following under 35 U.S.C 121 for the purpose to examination. This additional requirement is to facilitate examining due to the broad range of devices available in applicant's traffic communication system:

C. Elect one of the disclosed species of devices from among the Markush group of species. For example, stop light only, or speed limit sign only, or stop light plus speed limit sign only, etc.

Note: In regard to single species election of species C, the election should not be open-ended (i.e., comprising). An open-ended election will be considered non-responsive.

7. Upon election of invention I only, the applicant is further required to elect a single species of the following under 35 U.S.C 121 for the purpose to examination. This additional requirement is to facilitate examining due to the broad range of areas available in applicant's traffic communication system:

D. Elect one of the disclosed species of areas from among the Markush group of species. For example, roof only, or windshield only, or roof plus windshield only, etc.

Note: In regard to single species election of species D, the election should not be open-ended (i.e., comprising). An open-ended election will be considered non-responsive.

8. Upon election of invention I only, the applicant is further required to elect a single species of the following under 35 U.S.C 121 for the purpose to examination. This additional requirement is to facilitate examining due to the broad range of communication devices available in applicant's traffic communication system:

E. Elect one of the disclosed species of areas from among the Markush group of species. For example, optical transmitter only, or acoustic transmitter only, or optical transmitter plus acoustic transmitter only, etc.

Note: In regard to single species election of species E, the election should not be open-ended (i.e., comprising). An open-ended election will be considered non-responsive.

9. Upon election of invention II only, the applicant is further required to elect a single species of the following under 35 U.S.C 121 for the purpose to examination. This additional requirement is to facilitate examining due to the broad range of system variable available in applicant's method:

F. Elect one of the disclosed species of system variable from among the Markush group of species. For example, signal setting only, or signal direction only, etc.

Note: In regard to single species election of species F, the election should not be open-ended (i.e., comprising). An open-ended election will be considered non-responsive.

10. Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the

case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

11. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

***Conclusions***

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan C To whose telephone number is (571) 272-6985. The examiner can normally be reached on from 8:00AM to 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Keith can be reached on 571-272-6878.

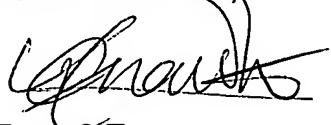
The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Application/Control Number: 10/785,590  
Art Unit: 3663

Page 7

Patent Examiner,

A handwritten signature in black ink, appearing to read "Tuan C To".

Tuan C To

February 07, 2006